



00035950

SEP 23 1996



THE JUDICIAL APPOINTMENTS ADVISORY COMMITTEE

A N N U A L R E P O R T

for the Period from

1 January 1994 to 28 February 1995

and for the Period from

1 March 1995 to 31 December 1995

Toronto, Ontario
January, 1996

THE JUDICIAL APPOINTMENTS ADVISORY COMMITTEE

A N N U A L R E P O R T

for the Period from

1 January 1994 to 28 February 1995

Dedication

This report is dedicated to the Honourable Ian Scott, whose vision of a better way to appoint judges is now part of the law of Ontario, and to his successors, the Honourable Howard Hampton and the Honourable Marion Boyd, whose commitment to the concept of an independent judiciary made that vision a reality.

Toronto, Ontario
March, 1995



Digitized by the Internet Archive
in 2017 with funding from
Ontario Council of University Libraries

https://archive.org/details/mag_00035950

Persons wishing to comment on the procedures or selection criteria of the Judicial Appointments Advisory Committee are invited to write to:

The Chair,
The Judicial Appointments Advisory Committee,
2nd Floor,
720 Bay Street,
Toronto, Ontario
M5G 2K1

Previous publications of the Judicial Appointments Advisory Committee:

- ◆ *Interim Report* (September, 1990);
- ◆ *Final Report and Recommendations* (June, 1992);
- ◆ *Annual Report for the Period from 1 July 1992 to 31 December 1993* (January, 1994).

TABLE OF CONTENTS

REPORT

1 JANUARY 1994 TO 28 FEBRUARY 1995

Letter of Transmittal	ix
Executive Summary	xi
Introduction	xiii

PART I

ANALYSIS OF JUDICIAL APPOINTMENTS MADE

1. Judges Appointed: 1 January 1994 — 28 February 1995	1
2. Overview of Appointments: 1 January 1989 — 28 February 1995	1

PART II

LEGISLATION

3. <i>The Courts of Justice Statute Law Amendment Act</i>	4
---	---

PART III

CONFIDENTIALITY

4. Concerns over Confidentiality	8
--	---

PART IV

POLICY AND PROCEDURE ISSUES

5. The Judicial Candidate Information Form	10
6. Outstanding Claims	10
7. Advertising Vacancies	10
8. Changes in Committee Membership	10
9. Support Staff	11

PART V

LOOKING TO THE FUTURE

10. Selection of Candidates	12
11. Outreach	12
12. A Representative Committee	12

SUPPLEMENTARY REPORT

1 March 1995 to 1 December 1995

Introduction	17
The New Committee	18

PART I

ANALYSIS OF JUDICIAL APPOINTMENTS MADE

1. Overview of Appointments: 1 January 1989 — 31 December 1995	19
--	----

PART II

JUDICIAL APPOINTMENT PROCESS

2. Procedures	21
3. Outreach	22

PART III

CHANGES IN POLICIES AND PROCEDURES

4. Conflict of Interest Guidelines	23
5. Law Society — Outstanding Complaints and Claims	23
6. Criminal Records	23
7. Candidate Pool	23
Conclusion	25
In Memoriam — Rev. David McCord	27

APPENDICES

1. Memorandum of Understanding	A-1
2. Procedure and Criteria for Appointment (Excerpt from September 1990 <i>Interim Report</i>)	A-3
3. Judicial Appointments made July 1989 to August 1990	A-13
4. Judicial Appointments made September 1990 to June 1992	A-15
5. Judicial Appointments made July 1992 to December 1993	A-17
6. Judicial Appointments made January 1994 to February 1995	A-19
7. Judicial Appointments made March 1995 to December 1995	A-21
8. Judicial Appointments Advisory Committee Members	A-23

31 January 1996

The Honourable Charles A. Harnick
Attorney General for Ontario and
Minister Responsible for Native Affairs
11th Floor
720 Bay Street
Toronto, Ontario
M5G 2K1

Dear Mr. Attorney:

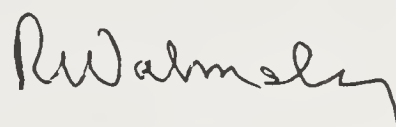
The Judicial Appointments Advisory Committee have the honour of presenting to you this report on our activity for the period from 1 January 1994 to 28 February 1995 and for the period from 1 March 1995 to 31 December 1995. It covers all significant matters related to the recommendation to the Attorney General of suitable candidates for appointment to the Ontario Court (Provincial Division).

Section 43 of the now amended *Courts of Justice Act* established the Committee in legislation and defined its independent advisory rôle on judicial appointments. This is the fourth report presented by the Committee since 1989.

Respectfully yours,



J. Douglas Grenkie, Q.C.
Chair



Robert J. K. Walmsley
Associate Chief Judge
Past Chair

EXECUTIVE SUMMARY

1 January 1994 to 28 February 1995

The Judicial Appointments Advisory Committee started in January 1989. Since then the Attorney General, the Honourable Marion Boyd, and her predecessors, the Honourable Howard Hampton and the Honourable Ian Scott, have appointed 105 judges based on Committee recommendations. Of these, 15 appointments were made between 1 January 1994 and 28 February 1995.

The highlights of Committee activity are as follows:

- ◆ **Appointments:**— Of the 15 appointments referred to above, three were women, two were francophone and one was of First Nations origin. Every appointment has been made from among candidates recommended by the Committee in accordance with their first criterion of professional excellence, and then on the other criteria set out in Appendix 2 to this Report.
- ◆ **Legislation:**— The Committee started over six years ago as a pilot project. We reported in January 1994 (the last Report) our expectation that legislation then pending would soon become law. On 23 June 1994, Bill 136 received Royal Assent and was proclaimed in force on 28 February 1995.¹ Bill 136 carried into law many of the Committee recommendations set out and discussed in the two previous Committee reports. Consequently, the Judicial Appointments Advisory Committee are now clothed with legislative authority, and their composition, procedures, criteria for selection and independent function are embodied in the new Act. This Act will mitigate against political patronage in the judicial appointments process.
- ◆ **Confidentiality:**— During the year, a citizen, who was not an applicant, sought access under the *Freedom of Information and Protection of Privacy Act*² to Judicial Appointments Advisory Committee records. These records contained the results of discreet enquiries made about a candidate who was later interviewed, recommended, and subsequently appointed as a judge, by the Attorney General.

A ruling³ by Irwin Glasberg, Assistant Privacy Commissioner, held that the Committee formed part of an “institution”, (in this case, the Ministry of the Attorney General) and, as such, is subject to the provisions of the *Freedom of Information and Protection of Privacy Act*.

1. Now the *Courts of Justice Statute Law Amendment Act, 1994*, S.O. 1994, c. 12.

2. R.S.O. 1990, c. F-31.

3. *I.P.C. Order P-704 (Ministry of the Attorney General)*, 16 June 1994, [1994] O.I.P.C. 191.

At the instance of the Attorney General, the issue is now before the Divisional Court branch of the Ontario Court (General Division) by way of judicial review. The Ministry of the Attorney General has carriage of the review proceedings and the Committee have retained independent counsel.

- ◆ **Procedure:**— The passing of Bill 136 means that the Ontario Judicial Council no longer has a rôle in approving and recommending candidates to the Attorney General. In anticipation of this change, the Committee have enlarged their screening process to ensure that no person will be recommended who has an outstanding claim or complaint with a law society, or a criminal record.

We have also:

- ◆ changed the method of handling applicant records to ensure greater confidentiality;
- ◆ refined the system of assessing applicants;
- ◆ reviewed criteria;
- ◆ sought opportunities to explain the Committee process to interested citizens; and
- ◆ refined and clarified the wording of our *Judicial Candidate Information Form*.

INTRODUCTION

On 15 December 1988, the then Attorney General, the Honourable Ian Scott, announced in the Ontario Legislature the establishment of the Judiciary Appointments Advisory Committee as a pilot project, and set out its mandate:⁴

First, to develop and recommend comprehensive, sound and useful criteria for selection of appointments to the judiciary, ensuring that the best candidates are considered; and second, to interview applicants selected by it or referred to it by the Attorney General and make recommendations.

Since then, the Committee have met over 60 times to select candidates, carry out interviews, and to determine committee policies and procedures. This includes 20 selection days and 40 interview days. Over 250 applicants have been interviewed and approximately 150 have been recommended, from which the various Attorneys General have selected and appointed 105 judges. The total number of applicants to date is 1,300, of whom approximately 30% were women.

We have issued three previous reports: in September 1990; in June 1992; and in January 1994. The current report will be the last prepared by this Committee. Henceforth, the new Committee will be reporting to the Attorney General and to the Ontario Legislature on an annual basis, as required by subsections 43(13) and (14) of the newly amended *Courts of Justice Act*.

4. [1988] Ont. Leg. Debates 6835 (15 December 1988).

PART I **ANALYSIS OF JUDICIAL APPOINTMENTS MADE**

1: JUDGES APPOINTED: 1 JANUARY 1994 – 28 FEBRUARY 1995

During this period, there have been 15 judges appointed as a result of recommendations made by the Committee. Added to the 90 appointments previously made, this number makes a total of 105 judges appointed since the Committee began its work in 1989. The complement of the Ontario Court (Provincial Division) is 260 judges. Thus, 40% of all the present provincial judges have been selected through the Committee process.

Of these 15 new appointments, three were women, two were francophone and one was of First Nations origin. At the present time, the Committee have 452 active applicants, 141 of whom are women.

The age of appointees ranges from 35 to 55 years, and the average age is about 43 years. Nine came from private practice, five were Crown attorneys and one came from a public agency. A list of these judges will be found in Appendix 6.

2: OVERVIEW OF APPOINTMENTS: 1 JANUARY 1989 - 28 FEBRUARY 1995

The reader will find lists of all judges appointed in each of the reporting periods in Appendices 3 to 6. The tables on this page and on the next illustrate some of the characteristics of these appointments.

The percentage of appointees coming from private practice has remained relatively constant at around 65%, with the balance coming from Provincial or Federal Crown work or from other government service. The Committee does not focus exclusively on applicants with experience in family and criminal practice.

TIMING OF THE APPOINTMENTS					
	1 Jan 1989 - 31 Oct 1990	1 Nov 1990 - 30 June 1992	1 July 1992 - 31 Dec 1993	1 Jan 1994 - 28 Feb 1995	Overall Total of Appointments
Total Appointments	28	39	23	15	105

LEGAL BACKGROUND						
	1 Jan 1989 - 31 Oct 1990	1 Nov 1990 - 30 June 1992	1 July 1992 - 31 Dec 1993	1 Jan 1994 - 28 Feb 1995	Total	Percent (N=105)
Private Practice	17	31	11	9	68	65%
Crown	8	3	6	5	22	21%
Government	3	5	6	1	15	14%

APPOINTMENT FROM UNDER-REPRESENTED GROUPS						
	1 Jan 1989 - 31 Oct 1990	1 Nov 1990 - 30 June 1992	1 July 1992 - 31 Dec 1993	1 Jan 1994 - 28 Feb 1995	Total	Percent (N=105)
Women	9	18	12	3	42	40%
Francophone	2	2	2	2	8	8%
First Nations	0	2	0	1	3	3%
Visible Minority	2	4	4	0	10	9%
Persons with Disabilities	0	0	0	0	0	0%

The Committee continue to encourage applications from members of under-represented groups within the legal profession. Each advertisement for a judicial vacancy states that:

The provincial judiciary should reasonably reflect the diversity of the population it serves. Applications from members of minority groups are encouraged.

The advertisement appears in the *Ontario Reports*, which has a wide circulation among lawyers in the province.

In addition, advance notice of a judicial vacancy is provided to approximately 160 legal and non-legal associations, such as the Canadian Bar Association – Ontario and the Advocacy Research Centre for the Handicapped (ARCH), with a request that the material be brought to the attention of their members. Committee members are prepared to attend any association meetings to discuss the appointment process and answer all questions concerning Committee procedures. Two members met with the Canadian Italian Advocates Organization (CIAO). Two members spoke to law students

at Carleton University in Ottawa and the University of Ottawa. Our desire is to make sure that the profession and public are fully informed about the process of judicial appointment.

PART II

LEGISLATION

3: THE COURTS OF JUSTICE STATUTE LAW AMENDMENT ACT

As we said earlier, significant amendments to the *Courts of Justice Act* were given Royal Assent in June 1994 and proclaimed on 28 February 1995. Section 43 deals with the Judicial Appointments Advisory Committee. It reads as follows:⁵

Judicial Appointments Advisory Committee

43.—(1) A committee known as the Judicial Appointments Advisory Committee in English and as Comité consultatif sur les nominations à la magistrature in French is established.

Composition

- (2) The Committee is composed of,
- (a) two provincial judges, appointed by the Chief Judge of the Provincial Division;
 - (b) three lawyers, one appointed by The Law Society of Upper Canada, one by the Canadian Bar Association-Ontario and one by the County and District Law Presidents' Association;
 - (c) seven persons who are neither judges nor lawyers, appointed by the Attorney General;
 - (d) a member of the Judicial Council, appointed by it.

Criteria

(3) In the appointment of members under clauses (2)(b) and (c), the importance of reflecting, in the composition of the Committee as a whole, Ontario's linguistic duality and the diversity of its population and ensuring overall gender balance shall be recognized.

Terms of Office

- (4) The members hold office for three-year terms and may be reappointed.

Staggered terms

(5) Despite subsection (4), the following applies to the first appointments made under subsection (2):

1. One of the provincial judges holds office for a two-year term.
2. The lawyer appointed by the Canadian Bar Association-Ontario holds office for a two-year term and the lawyer appointed by the County and District Law Presidents' Association holds office for a one-year term.

5. *Courts of Justice Statute Law Amendment Act, 1994*, S.O. 1994, c. 12, section 16.

3. Two of the persons who are neither judges nor lawyers hold office for two-year terms and two hold office for one-year terms.

Chair

- (6) The Attorney General shall designate one of the members to chair the Committee for a three-year term.

Term of Office

- (7) The same person may serve as chair for two or more terms.

Function

- (8) The function of the Committee is to make recommendations to the Attorney General for the appointment of provincial judges.

Manner of Operating

- (9) The Committee shall perform its function in the following manner:
 1. When a judicial vacancy occurs and the Attorney General asks the Committee to make a recommendation, it shall advertise the vacancy and review all applications.
 2. For every judicial vacancy with respect to which a recommendation is requested, the Committee shall give the Attorney General a ranked list of at least two candidates whom it recommends, with brief supporting reasons.
 3. The Committee shall conduct the advertising and review process in accordance with criteria established by the Committee, including assessment of the professional excellence, community awareness and personal characteristics of candidates and recognition of the desirability of reflecting the diversity of Ontario society in judicial appointments.
 4. The Committee may make recommendations from among candidates interviewed within the preceding year, if there is not enough time for a fresh advertising and review process.

Qualification

- (10) A candidate shall not be considered by the Committee unless he or she has been a member of the bar of one of the provinces or territories of Canada for at least ten years or, for an aggregate of at least ten years, has been a member of such a bar or served as a judge anywhere in Canada after being a member of such a bar.

Recommendation by Attorney General

- (11) The Attorney General shall recommend to the Lieutenant Governor in Council for appointment to fill a judicial vacancy only a candidate who has been recommended for that vacancy by the Committee under this section.

Rejection of List

- (12) The Attorney General may reject the Committee's recommendations and require it to provide a fresh list.

Annual Report

(13) The Committee shall submit to the Attorney General an annual report of its activities.

Tabling

(14) The Attorney General shall submit the annual report to the Lieutenant Governor in Council and shall then table the report in the assembly.

The Committee made twenty-eight recommendations for legislative change to the Attorney General and these are set out in Appendix 1 of our Report of June 1992. We are pleased that most of our proposals were embodied in the Act. In particular, we note the following:

- ◆ The Chief Judge and the Ontario Judicial Council are empowered to establish a program of judicial evaluation (section 51.11 of the amended *Courts of Justice Act* – Recommendation 1);
- ◆ The Ontario Judicial Council is no longer required to report on proposed appointments of provincial judges (section 48 of pre-1994 version of Act repealed). As a result, the Committee are now the only recommending body (Recommendation 9);
- ◆ The Committee shall advertise each vacancy, unless there are special circumstances, thereby ensuring that the process is an open one and that the profession and the public are promptly made aware of our complement needs (subsection 43(9) of the amended Act – Recommendations 19 and 20).

On the other issues, however, our recommendations were not so successful:

- ◆ Selection of Committee Members: We recommended that the lay members should be “appointed by the Attorney General in consultation with opposition leaders” (Recommendation 10). This recommendation was not accepted. We have been assured, however, that all members chosen by the Attorney General will routinely be subject to the procedures of the Public Appointments Secretariat of the Management Board of Cabinet. Such appointments are referred to the all-party Standing Committee on Government Agencies for scrutiny.
- ◆ Confidentiality of Committee Information: In our last annual report, we were concerned that the Committee should be exempted from the *Freedom of Information and Protection of Privacy Act*. We note that, during the year, a citizen, who was not an applicant, sought access under the *Freedom of Information and Protection of Privacy Act* to Judicial Appointments Advisory Committee records. These records contained the results of discreet enquiries made about a candidate who was later interviewed, recommended, and subsequently appointed as a judge by the Attorney General.

A ruling⁶ by Irwin Glasberg, the Assistant Privacy Commissioner, held that the Committee formed part of an “institution” (in this case, the Ministry of the Attorney General) and, as such, are subject to the provisions of the *Freedom of Information and Protection of Privacy Act*.

At the instance of the Attorney General, the issue is now before the Ontario Divisional Court by way of judicial review. The Ministry of the Attorney General has carriage of the review proceedings and the Committee have retained independent counsel.

We discuss the confidentiality issue more fully in Part III of this report.

6. See fn. 3, *supra*.

PART III

CONFIDENTIALITY

4: CONCERNS OVER CONFIDENTIALITY

Since 1 January 1989, the Committee have observed two major policies about making information available. These are:

1. All matters having to do with Committee procedures for selecting, interviewing and recommending persons for appointment, including criteria, should be fully available to any member of the public, without reservation.
2. All information received by the Committee about a particular applicant should be completely confidential.

This last point refers to information such as the application form, records of the Canadian Police Information Centre (C.P.I.C.), Law Society claims and complaints, discreet enquiries, reference checks, the interview, and the discussions in committee.

In the instruction sheet that is attached to the *Judicial Candidate Information Form*, we assure each applicant as follows:

All information collected will be kept in confidence by the Committee. The Committee may wish to obtain information from other sources. In making these inquiries, every effort will be made to maintain confidentiality.

Similarly, we advise persons offered as references or contacted for discreet enquiry that their information will be treated on a strictly confidential basis. In Committee discussions, where practicable, members do not refer to informants by name.

The Committee recognized the confidentiality issue and its potential problems in June 1989. We sought, and obtained, a legal opinion at that time that the records of the Judicial Appointments Advisory Committee were not subject to the *Freedom of Information and Protection of Privacy Act*. Again in 1992, we repeated our concerns and we were again advised that the *Freedom of Information and Protection of Privacy Act* had no application. In 1994, we learned that the Ontario Judicial Council would specifically be made exempt from the *Freedom of Information and Protection of Privacy Act*⁷ and requested government to grant the same protection to the Committee.

Just days before Royal Assent to Bill 136⁸ (*Courts of Justice Statute Law Amendment Act, 1994*), the Assistant Privacy Commissioner issued his ruling,⁹ finding that the Judicial Appointments Advisory Committee was part of the Ministry of the Attorney General

7. See subsection 49(24) of the amended *Courts of Justice Act*.

8. On 23 June 1994.

9. See footnote 3, *supra*.

and thus subject to the *Freedom of Information and Protection of Privacy Act*. That ruling is presently under review on the issue of whether the Judicial Appointments Advisory Committee form part of the Ministry of the Attorney General.

This issue raises the question of whether the result would be the same now that Bill 136 has been proclaimed. On this point, it is necessary to look at the reasons the Assistant Commissioner gave for so holding:

- (1) The Committee was not created by statute and has no legal status separate from that of the Ministry.
- (2) The Committee's functions tie in closely with the mandate of the Attorney General under subsection 42(1) of the *Courts of Justice Act* which is to make recommendations to Cabinet about the appointment of Provincial Court Judges.
- (3) There does not exist a memorandum of understanding or related agreement which establishes that the Committee is to be viewed as a distinct and separate advisory body.
- (4) The Directory of Records published by the Ontario Government stipulates that applications received from individuals to be appointed as provincial court judges constitute a personal information bank maintained by the Ministry.
- (5) Committee members are not appointed through Orders in Council.
- (6) The Ministry both funds the operations of the Committee and provides administrative support to this group.
- (7) The Committee's office is located in the same building as the Ministry and Committee records not in the possession of individual Committee members are filed on the Ministry's premises under the supervision of a Ministry employee.

In keeping with our understanding of the independent nature of the Committee, we negotiated a *Memorandum of Understanding* with the Ministry of the Attorney General that clearly acknowledges this status. The full text of the *Memorandum of Understanding* is to be found in Appendix 1 to this report.

Finally, we note that the Assistant Commissioner specifically refrained from ruling that the information sought must be disclosed to the citizen. He stated as follows:

In forming the conclusion that the Ministry/Committee has control over the records at issue in this appeal, I would emphasize that I have not also determined that these documents should be disclosed to the appellant. In this respect, the Ministry is free to avail itself of the exemptions set out in sections 12 through 22 of the [*Freedom of Information and Protection of Privacy Act*] in determining whether or not it is prepared to release the relevant documents.

Because of our concerns on this critical issue, the Committee will continue to work for greater safeguards for confidential material, including a legislative amendment.

PART IV

POLICY AND PROCEDURAL ISSUES

5: THE JUDICIAL CANDIDATE APPLICATION FORM

In reviewing candidates for a vacancy, a committee member may have to read as many as 150 applications. Consequently, a clearly-typed, succinct form will create a favourable first impression. Accuracy is important, especially in giving details about references such as complete telephone numbers. The applicants' legal experience should be set out in some detail, since professional competence is our first criterion.

We are also interested in community activities. Some applicants have little formal exposure in community organizations. If this is the case, the Committee are glad to consider any information showing that a candidate has knowledge of social issues and the variety of human experience.

6: OUTSTANDING CLAIMS

The Judicial Appointments Advisory Committee will not consider for an interview any candidate against whom a claim or complaint is outstanding. All candidates should inquire from the Law Society whether a problem exists and advise the Committee Secretary of the status of any claim or complaint.

7: ADVERTISING VACANCIES

The Committee advertise each vacancy and the Attorney General may only appoint a person recommended for that vacancy. The only exception is when there is an urgent need to fill a vacancy. In this case, the Committee may recommend from amongst recent interviewees without advertising.

8: CHANGES IN COMMITTEE MEMBERSHIP

During the period under review, the Committee membership remained stable. Of the eleven members serving on 1 January 1994, ten were still with us on 28 February, 1995. Unfortunately Denise Korpan had to resign in March 1994 because of other work commitments. Ms. Korpan was one of the original appointees in 1989.

We note also that Ms. Alva Orlando and Ms. Michelle Rocheleau, both members of the Bar, will be required to leave the Committee because the new Act does not permit the Attorney General to appoint legal members. In addition, Ms. Leela MadhavaRau has had to tender her resignation because she and her family are moving out of the province.

Their knowledge of the profession and their insights into candidates' abilities were of the greatest value to the Committee. We will miss their input.

The following persons will be joining the Committee very shortly as appointees under the new regime and we look forward to working with them:

- (a) Mr. Palmacchio Di Iulio Toronto (appointed by Attorney General)
- (b) Mr. Harry Huskins Lively (appointed by Attorney General)
- (c) Ms. Beverley Johnson Toronto (appointed by Attorney General)
- (d) Ms. Nancy Mossip Mississauga (appointed by the County & District
Law Presidents' Association)

We have had the opportunity of meeting with all four new members and we anticipate an excellent ongoing association.

We welcome back to the Committee Professor Emily Carasco, of Windsor, Ontario, who has been on leave of absence since June 1992. Professor Carasco's experience and insights will be of great benefit to our work in the days ahead. The Committee still has a vacancy to be filled by an appointee from the Ontario Judicial Council.

Finally, we note that Mr. Douglas Grenkie, Q.C. has been designated by the Attorney General as the Chair of the new Committee under subsection 43(6) of the Act. He will replace Associate Chief Judge Robert Walmsley, who will continue on as a member for a term of two years.

9: SUPPORT STAFF

Ann Kelly has been the Committee's Secretary and Administrative Officer during the period covering the previous Report and this Report as well. Her experience has proved invaluable in maintaining a high level of proficiency in all areas of Committee work. Ms. Kelly's personal dedication has provided the Committee with a priceless resource upon which to draw. Her insight and positive attitude enable the Committee to proceed with their work in a pleasant environment.

The Committee also wishes to acknowledge the professionalism and commitment of Ms. Carol Chan. Her organizational skills coupled with a congenial manner have provided exemplary secretarial and clerical service to the Committee.

Finally, the Committee would like to extend our thanks to the Attorney General, the Honourable Marion Boyd, the Deputy Attorney General, Larry Taman and former Deputy Attorney General, George Thomson, for taking the time to meet with us to discuss various issues and other concerns of the Committee. In addition, the Committee wish to acknowledge the co-operation that we have received from Chris Ewasiuk, Pat Roberts, Axel Frandsen, Scott Feltman and Craig Perkins.

PART V

LOOKING TO THE FUTURE

10: SELECTION OF CANDIDATES

One of the most important parts of the new legislation is the guideline for selection of candidates, set out in paragraph 3 of subsection 43(9) of the amended *Courts of Justice Act*, which reads as follows:

The Committee shall conduct the advertising and review process in accordance with criteria established by the Committee, including assessment of the professional excellence, community awareness and personal characteristics of candidates and recognition of the desirability of reflecting the diversity of Ontario society in judicial appointments.

Professional excellence remains of paramount importance to the Committee. It has been most gratifying to reflect that the Committee have been told without exception that *no* under-represented group would wish to be chosen on that basis alone. Such selection would serve only to invite a charge of "tokenism".

11: OUTREACH

While we reject the "quota approach", we will continue to invite candidates from the various under-represented sections of the legal community to seek appointment. The Committee have firmly accepted outreach as one of our roles. Our earlier initiative encouraging women to apply resulted in the recommendation of well-qualified women including women from other under-represented groups.

Although there has been a steady increase in the number of students from traditionally under-represented communities entering the legal profession, the Committee recognizes that there are a number of barriers, both physical and societal to be overcome before there will be a large enough pool to enable Ontario to reach its goal of a truly representative judiciary.

12: A REPRESENTATIVE COMMITTEE

It is important to have representation on the Committee that is as diverse as possible. Subsection 43(3) of the amended Act establishes criteria for Committee members as follows:

In the appointment of members . . . , the importance of reflecting, in the composition of the Committee as a whole, Ontario's linguistic duality and the diversity of its population and ensuring overall gender balance shall be recognized.


The new committee will have representation from seven of the eight judicial regions in the province and will have seven men and five women, with one appointment

still to be made. Although it may not be possible for the Committee to reflect all groups at all times, a good balance has certainly enriched the deliberations of the Committee. It is important that this continue, so that the special needs of various communities can be fully appreciated. In particular, French language services and bilingual appointments are specifically recognized by legislation. Continued representation from the francophone community would be desirable and helpful to the Committee. Profiles of present and new Committee members can be found in Appendix 7 to this report.

We, as a Committee, continue our pursuit of excellence in recommending for appointment judges to the Ontario Court (Provincial Division). The quality of the applicants whom we see is impressive. The choice of those to be recommended to the Attorney General is often difficult.

Despite a heavy work-load, Committee members maintain a high level of interest in the process and derive a great deal of personal satisfaction in being part of this rewarding work.

All of which is respectfully submitted:



Associate Chief Judge Robert Walmsley
Chair



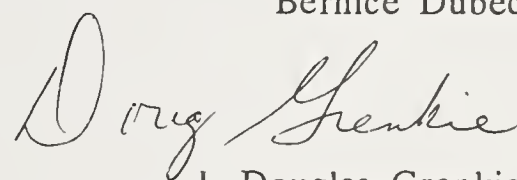
Robert J. Carter



Bernice Dubec



Regional Senior Judge J.D. Evans



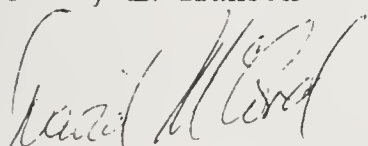
J. Douglas Grenkie



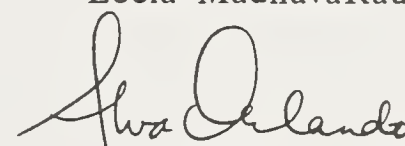
Nancy E. Hansen



Leela MadhavaRau



David McCord



Alva Orlando



Denise Korpan
(to March 1994)



Michelle Rocheleau

THE JUDICIAL APPOINTMENTS ADVISORY COMMITTEE

S U P P L E M E N T A R Y R E P O R T

for the Period from

1 March 1995 to 31 December 1995

Toronto, Ontario
January, 1996

JUDICIAL APPOINTMENTS ADVISORY COMMITTEE

SUPPLEMENTARY REPORT

1 March 1995 to 31 December 1995

INTRODUCTION

After completion of the Report covering the period of 1 January 1994 to 28 February 1995, we deemed it advisable to add a Summary of our activities from 1 March 1995 to 31 December 1995 in order to make the report coincide with a calendar year and provide the basis for an ongoing Annual Report. Further, because this additional period was one of somewhat diminished activity, partly as a consequence of the change of government in June 1995, we considered that the activities needing to be recorded did not warrant the creation of a separate report.

THE NEW COMMITTEE

The legislation provides for thirteen members. The new Committee is made up of former members and new appointees. Robert Carter, Q.C. and Doug Grenkie, Q.C. were re-affirmed as representatives of the Law Society of Upper Canada and The Canadian Bar Association respectively. The County and District Law Presidents' Association designated Nancy Mossip to be its member on the Committee. Associate Chief Judge Walmsley and Regional Senior Judge John Evans continue to be the representatives of Chief Judge Sidney B. Linden.

On 29 November 1995, we were advised by the Ontario Judicial Council that its representative on the Committee would be the Honourable Judge Lynn King of Toronto.

The Honourable Marion Boyd, the former Attorney General reconfirmed the appointments of lay members Nancy Hansen, Professor Emily Carasco, Bernice Dubec and the Rev. David McCord and appointed three new lay members, the Rev. Harry Huskins, Beverley Johnson and Pal Di Iulio. Unfortunately, it was not possible to reaffirm Michelle Rocheleau and Alva Orlando as members, because the Act does not permit the Attorney General to appoint legal members.

In June 1995, David McCord resigned from the Committee because of ill health. With the loss of David McCord and Michelle Rocheleau, the Committee no longer had the capability of assessing the French language competence of candidates. A request has been made to the Honourable Charles A. Harnick, Attorney General, to appoint a francophone replacement for David McCord.

PART I

ANALYSIS OF JUDICIAL APPOINTMENTS MADE

1: OVERVIEW OF APPOINTMENTS: 1 JANUARY 1989 – 31 DECEMBER 1995

As a result of recommendations made by the Committee, five appointments have been made during this period which brings the total appointments made since January 1989 to 110. A table illustrating some of the characteristics of these 110 appointments follows:

TIMING OF THE APPOINTMENTS						
	1 Jan 1989 - 31 Oct 1990	1 Nov 1990 - 30 June 1992	1 July 1992 - 31 Dec 1993	1 Jan 1994 - 28 Feb 1995	1 Mar 1995 - 31 Dec 1995	Overall Total of Appointments
Total Appointments	28	39	23	15	5	110

LEGAL BACKGROUND							
	1 Jan 1989 - 31 Oct 1990	1 Nov 1990 - 30 June 1992	1 July 1992 - 31 Dec 1993	1 Jan 1994 - 28 Feb. 1995	1 Mar 1995 - 31 Dec 1995	Total	Percent (N=110)
Private Practice	17	31	11	9	4	72	65%
Crown	8	3	6	5	0	22	20%
Government	3	5	6	1	1	16	15%

APPOINTMENT FROM UNDER-REPRESENTED GROUPS							
	1 Jan 1989 - 31 Oct 1990	1 Nov 1990 - 30 June 1992	1 July 1992 - 31 Dec 1993	1 Jan 1994 - 28 Feb 1995	1 Mar 1995 - 31 Dec 1995	Total	Percent (N=110)
Women	9	18	12	3	1	43	39%
Francophone	2	2	2	2	1	9	8%
First Nations	0	2	0	1	0	3	3%
Visible Minority	2	4	4	0	0	10	8%
Persons with Disabilities	0	0	0	0	0	0	0%

On 8 June 1995, there was a change in government and a new Attorney General was appointed.

We made our first recommendations to the new Attorney General, the Honourable Charles A. Harnick, in mid-July 1995. In October 1995 the Attorney General advised us that, after carefully reviewing the applications of the two ranked candidates, he felt it appropriate to request us to provide a fresh list. The vacancy was originally advertised on 21 April 1995. We reviewed the applications of candidates who had applied for that vacancy and, in accordance with the criteria established by us, selected seven additional candidates to be interviewed. On 15 December 1995, we submitted two names, ranked equally, to the Attorney General.

PART II

JUDICIAL APPOINTMENT PROCESS

2: PROCEDURES

We are aware of a number of vacancies and are awaiting the Attorney General's instructions to identify suitable candidates. We have provided to the Attorney General a breakdown of the time needed to complete the identification of qualified candidates suitable for judicial appointment as follows:

After receiving instructions from the Attorney General to fill a vacancy, the following process is commenced.

1. Advertising the vacancy — six weeks

All vacancies are advertised in the *Ontario Reports*. The copy must be provided three weeks prior to publication date. Three weeks is allowed for applications to be received. In addition to advertising, the Committee contacts approximately 170 legal and non-legal associations with advance notice of the vacancy with a request that they bring the copy of the advertisement to the attention of their members.

2. Review of applications by members — four weeks

Each member is provided with a list of all candidates who respond to the advertisement, plus copies of all new and up-dated application forms. Because most members have full-time jobs and, depending on the number of applications received, the time assigned for members to review and assess the applications is a maximum of four weeks.

3. Discreet Inquiries — four weeks

If an applicant is selected by three or more members his or her name is put on a short list for the purposes of discreet inquiries and reference checks. These inquiries are made of the judiciary, law associations community and social services organizations, plus the named referees provided by the applicant. A meeting to select candidates to be interviewed takes place three to four weeks after the members receive the short list for discreet inquiries.

4. Interviews and Recommendations to Attorney General — two to three weeks

Interviews take place approximately two weeks after the selection meeting. The number of candidates interviewed varies but never exceeds fourteen. The letter

of recommendation to the Attorney General is usually delivered within two days of the conclusion of the interviews.

We recognize the need to maintain continuity in the operation of the courts, and we have streamlined our procedures to that end. This allows the Attorney General the opportunity to make appointments in a timely manner.

As well, we have established a procedure to avoid delays in filling vacancies that occur unexpectedly, such as from sudden resignation, illness or death. In such cases, when so requested by the Attorney General, we may recommend candidates who have previously applied for the area and who have been interviewed, without advertising the vacancy. This procedure will only apply to areas where there has been an advertised competition within a twelve month period. However, the policy of advertising is the procedure of preference and will only be departed from in limited circumstances.

3: OUTREACH

It is our belief that the provincial judiciary should be reflective of the population that it serves and we continue to encourage applications from qualified members of all communities.

We reviewed our current outreach initiatives and decided that, in addition to our current procedure of providing advance notice to the legal profession of vacancies to be advertised, steps should be taken to promote awareness of the judicial appointment process to the public as well as to the legal profession. It is our view that, if the process is widely known in the community, then the committee can expect to continue to receive applications from lawyers of diverse backgrounds.

Accordingly, we wrote to approximately 170 organizations indicating that we would be pleased to attend any meetings of the group to explain our mandate, criteria and procedures. This invitation was extended to both legal and non-legal organizations.

As a result of this initiative, we have been invited to address various groups. Bernice Dubec travelled to Fort Frances and addressed high school students, lawyers and a community group; Doug Grenkie and Associate Chief Judge Robert Walmsley met with members of the Metropolitan Toronto Chinese and Southeast Asian Clinic; Bernice Dubec and Doug Grenkie addressed a meeting of the Ontario Native Council on Justice; Associate Chief Judge R. Walmsley participated in a workshop sponsored by the Association des Juristes d'Expression Française de l'Ontario. Also, we are preparing a brochure that will be used to inform the public and legal profession.

PART III

CHANGES IN POLICIES AND PROCEDURES

We regularly review the procedures in response to feed back about our process. Accordingly, in May 1995, the members of the new committee reviewed the procedures that had been put in place over the years and discussed situations that could arise in the future. The following amendments were unanimously agreed upon:

4: CONFLICT OF INTEREST GUIDELINES

- (a) Members of the committee cannot apply to be considered for a provincial judicial appointment for a period of two years from the date they cease to serve as a member of the Committee.
- (b) No active member of the Committee can act as a referee for a candidate seeking a provincial judicial appointment.
- (c) Members who feel that they may have a conflict in the nature of a potential bias or prejudice to a candidate must declare such conflict and refrain from participating in the interviews for that vacancy.

5: LAW SOCIETY – OUTSTANDING COMPLAINTS AND CLAIMS

- (a) *Complaints as to Practice:* Candidates will not be considered for discreet inquiries or an interview if they have any complaints registered with the Law Society.
- (b) *Errors and Omissions Claims:* Candidates will not be considered for discreet inquiries or an interview if they have any outstanding Errors and Omissions claims registered with the Law Society.
- (c) *Civil Claims or Judgments:* Members of the Committee would be prepared to consider the application of a candidate who is involved in a civil claim or proceeding if, after receiving details of the proceeding, the members are of the opinion that the nature of the claim is such that it should not prevent the candidate from being considered.

6: CRIMINAL RECORD

Members of the Committee will not consider a candidate who has a criminal record.

7: CANDIDATE POOL

We do not now maintain a pool of candidates who have previously been recommended but not appointed. We agreed to discontinue the candidate pool concept

because of the difficulties of trying to compare and rank candidates who had just been interviewed with candidates who had been previously interviewed and recommended but not appointed. If we are interested in an applicant who has been interviewed on a prior occasion, they will be interviewed again and ranked along with all other persons interviewed for that vacancy. There will be no limit to the number of times a that candidate will be interviewed.

CONCLUSION

Over the past six years, we have established criteria and procedures that have established a fair and impartial process for the appointment of judges to the Ontario Court (Provincial Division), one that we hope has assisted in removing any perception of unwarranted political bias or patronage in appointments to the judiciary. We have tried to ensure that the candidates recommended by us to the Attorney General possess all the required qualities set out in our criteria and are well regarded by their peers and community.

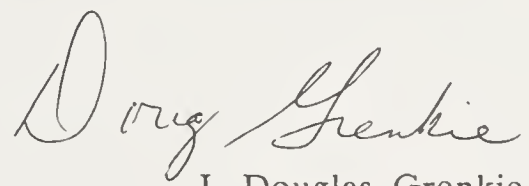
In his report entitled *A Place Apart: Judicial Independence and Accountability in Canada*,¹⁰ at pages 245 and 246, Professor Martin L. Friedland evaluated the Committee and their impact on judicial appointments in Ontario. He was of the opinion that we are in control of the process and have an effective voice in the selection of provincial court judges. He stated:

. . . the Committee has improved the overall quality of provincial court judges. Certainly, it has made the bench more representative of the make-up of the citizenry. The 1993 Canadian Bar Association-Ontario brief to the government referred to "the great contribution made by the Committee in the last four years to reformation of the judicial appointment system in Ontario". The question is whether such an apparently successful venture can be transferred to federal appointments.

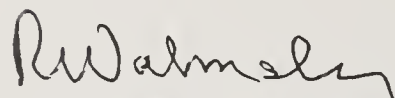
The Committee has also gained recognition outside of Canada and has provided information concerning its process to countries reviewing their methods of judicial appointments, including, the Lord Chancellor's Department in Great Britain, the Attorney General's Office in Australia and a group of senior lawyers and advocates from South Africa.

We are gratified that we have been accepted and acknowledged as being the first totally independent committee to be charged with the responsibility of recommending to the Attorney General the names of qualified candidates suitable for judicial appointment to the Ontario Court (Provincial Division).

All of which is respectfully submitted.


J. Douglas Grenkie
Chair

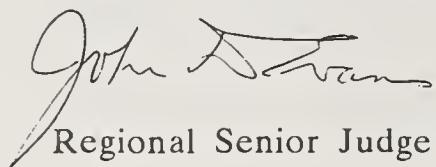
10. (Ottawa: Canadian Judicial Council, 1995).



Associate Chief Judge R. Walmsley



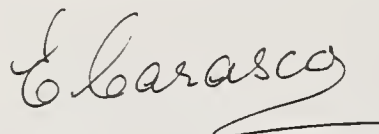
Bernice Dubec



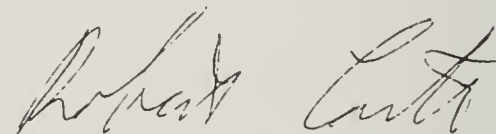
Regional Senior Judge John D. Evans



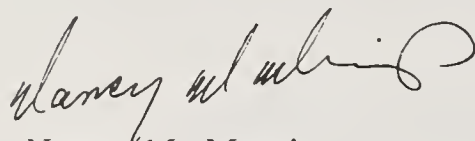
Nancy Hansen



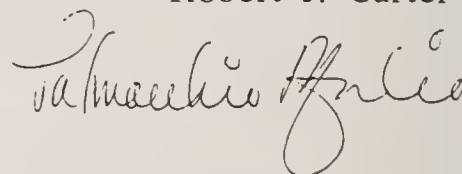
Professor Emily Carasco



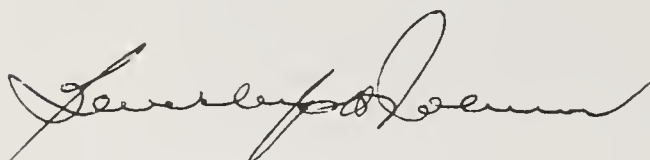
Robert J. Carter




Nancy M. Mossip



Pal Di Iulio



Beverly Johnson



Harry Huskins



Judge Lynn King

IN MEMORIAM

— DAVID McCORD —

The members of the Committee were saddened to learn that, following a short illness, David McCord died on 28 August 1995.

David McCord was appointed to the Committee at the time of its establishment in December 1988 by the Honourable Ian Scott. Over the years, he was a major influence in developing our criteria for judicial appointment, as well as fair and open procedures for candidate selection. David was active right up until his resignation in May 1995.

David McCord's commitment to justice and to obtaining the very best candidates for judicial appointments was an inspiration to all members. He was a person of high principle, deep conviction and wide knowledge. He also possessed an infectious sense of humour, a friendly manner and a zest for life. His presence made our often lengthy meetings a pleasure to attend. David will be greatly missed.

— APPENDIX 1 —

MEMORANDUM OF UNDERSTANDING

BETWEEN: THE MINISTRY OF THE ATTORNEY GENERAL

— AND —

THE JUDICIAL APPOINTMENTS ADVISORY COMMITTEE
(as represented by the Chair)

Under the *Courts of Justice Act*, R.S.O. 1990, c. C-43, as amended by S.O. 1994, c. 12 (the “Act”), the Judicial Appointments Advisory Committee (the “Committee”) is created as an independent statutory body with responsibility for the recommendation of candidates for appointment as judges to the Ontario Court (Provincial Division). The Committee and the Ministry of the Attorney General (the “Ministry”) are committed to ensuring that the Committee is able to carry out its functions and responsibilities under the Act effectively and independently. It is acknowledged that the Committee requires administrative support from the Ministry to enable it to carry out its statutory duties and responsibilities. To this end, the Ministry and the Committee agree to the following administrative arrangements:

1. Members of the Committee will not be treated in any way as employees of the Ministry and will not receive a salary or fee for work performed as a member of the Committee. Members of the Committee will receive an honorarium.
2. Reasonable expenses incurred by the members of the Committee in the course of performing Committee work will be paid by the Ministry. The Ministry will, to the extent possible, provide the Committee with the equipment it requires to carry out its work, including telephone, stationery and forms. The Committee will provide the Ministry with the information that the Ministry requires to process expense claims and provide equipment.
3. Administrative services for the Committee will be provided by an employee of the Ministry who will function as the Administrative Officer and Secretary for the Committee (the “Administrative Officer”). The Ministry will provide administrative assistants, such as a secretary, for the Administrative Officer as needed. The Administrative Officer will be instructed to ensure that his or her work for the Committee is carried out at arm’s length from the Ministry. To this end, the Administrative Officer will be instructed to carry out his or her function with respect to the Committee solely at the direction of the Committee. Ministry employees acting as administrative assistants to the Administrative Officer will be subject to the same requirement. In carrying out these functions, the Administrative Officer and his or her administrative assistants will report to the Committee through the Chair of the Committee, rather than to an employee or official of the Ministry.
4. The Administrative Officer is to keep confidential all information relating to the work of the Committee, including information obtained about candidates by the Committee, unless the Committee authorizes the disclosure of the information. The Ministry shall not require the Administrative Officer to provide any information about the work of the Committee to the Ministry unless the Committee has authorized the disclosure. The Committee and

the Administrative Officer will develop standing procedures for the sharing of information in the ordinary course of the Committee's work with the Administrative Officer's assistants and other members of the Ministry's staff. The standing procedures will include provisions dealing with the disclosure of information relating to expenses and equipment required by the Ministry as set out above.

5. The Ministry will provide the Committee with an office or part of an office on the premises of the Ministry. The office will be used as the mailing address of the Committee. The Administrative Officer will be located in this office. The Ministry will ensure that a telephone line and fax line for the use of Committee business is available in this office.
6. The Ministry will provide the Committee with storage facilities, such as filing cabinets, for the storage of the Committee's files and electronic equipment for the Committee records. The storage facilities will be located in the office of the Committee. The Committee has the sole discretion to determine whether it will store any of its records in these storage facilities. Any records stored in the storage facilities will be kept under lock and key and will not be disclosed to any Ministry employee or official, other than the Administrative Officer and assistants, without the approval of the Committee.
7. The Ministry will treat all records of the Committee in the storage facilities provided by the Ministry as the property of the members of the Committee and not as the property of the Ministry. Accordingly, Ministry procedures regarding the retention and destruction of all such records in the Committee's storage facilities will be governed by the direction of the Committee.
8. Any administrative duty, responsibility or power vested in the Chair of the Committee or the Administrative Officer may be exercised by the delegates or by an acting Chair or acting Administrative Officer.
9. This Memorandum of Understanding has effect from the day that section 16 of the *Courts of Justice Statute Law Amendment Act, 1994*, S.O. 1994, c. 12 is proclaimed. This Memorandum of Understanding may be terminated, by either party, on ninety days notice. It may be amended by the Ministry or the Committee only with the express written agreement of the other party.

Signed by Sandra Lang, Assistant Deputy Attorney General, Courts Administration
for the Ministry of Attorney General.

Signed by Associate Chief Judge Robert Walmsley,
for the Judicial Appointments Advisory Committee

Date 8 March 1995

— APPENDIX 2 —

PROCEDURE AND CRITERIA FOR APPOINTMENTS

Excerpt from The Judicial Appointments Advisory Committee: *Interim Report*, (September 1990), pages 9-21.

VII: PROCEDURES

Set out below is a step-by-step account of how the committee arrives at its recommendations for filling vacancies. These procedures are still evolving. The committee continues to wrestle with the problem of trying to be fair to every candidate and give full consideration to all appropriate candidates for each position despite the very large number of applications and the limited amount of time at its disposal. The committee would certainly welcome suggestions on how these procedures might be improved but would ask that those who make suggestions bear in mind the limited amount of time that a volunteer committee can devote to this task.

1. Notice of Vacancies

The committee does not begin a selection round until the Attorney General informs the committee's Chairperson that appointments will be made to certain positions. In the past, the Chairperson has usually discussed these positions with the Chief Judge of the Division concerned to ascertain any particular features of the position — for instance, extensive travel or a language requirement — that should be mentioned in the advertisement. Now that the Criminal and Family Divisions have been combined to form the new Provincial Division of the Ontario Court of Justice, these communications will be with Chief Judge Sidney B. Linden who heads the new combined court.

To date, the committee has not been informed of vacancies until they occur or are quite imminent. The committee's procedures for completing a selection round take about three months and following its recommendations several more weeks are required for selection by the Attorney General, consideration by the Ontario Judicial Council and final decision by the Cabinet. Often this means that judicial vacancies are unfilled for several months resulting in great inconvenience to the public. This problem has been discussed with the Attorney General and Chief Judge Linden. Steps are now being taken to anticipate retirements so that the committee can begin the selection process well in advance of a vacancy.

2. Advertising and Recruiting Candidates

Very early in its deliberations, the committee decided that it was important to make the committee and its work as well known as possible. Accordingly, in each round, the positions on which the committee has been asked to make recommendations have been advertised in the *Globe and Mail* or the *Toronto Star*, local newspapers in the communities where the vacancies exist, the *Lawyers Weekly* and the *Ontario Reports*. The last publication is received by all members of the Law Society; the *Lawyers Weekly*, although a national paper available only by subscription, is widely read by most Ontario lawyers. The advertisement describes the positions that are vacant and the method of application and gives those who are interested a month to submit a completed Personal Information Form. Copies of the four advertisements are included in Appendix 2.

The response to these advertisements has been remarkable. At the time of the first

advertisement, the committee received 167 applications. By the end of the second, it had 281 applications on file. In round three, the number went up to 396 and by the end of the fourth round the committee had received completed information forms from 452 candidates. Although some of these applications are from individuals who had applied earlier to the Attorney General and had been notified of the new procedure, a great many are new candidates. The committee was told by a number of candidates whom it subsequently interviewed that it was the advertisement that made them aware of the opportunity of being considered for judicial appointment even though they had no political connections. The committee thinks the advertisements have contributed to making the judiciary accessible to a much wider range of qualified lawyers.

The committee has not relied entirely on advertisements to recruit good candidates. It has contacted organizations and groups in touch with lawyers from sectors of society that in the past have not been well represented on the Provincial Court. This effort reflects one of the committee's criteria printed on every advertisement, namely that the committee believes the composition of the judiciary should better represent the diversity of Ontario's population. Among those contacted are legal aid clinics, women's organizations, Franco-Ontarians, West Indian and native lawyers organizations. The committee feels that it should do more of this in the future. The purpose of these contacts is not to solicit applications from any particular lawyer but to have these organizations encourage lawyers whom they respect to apply.

The human rights legislation does not permit the committee to collect information about the ethnic or racial background of applicants. Thus, the committee does not have data on this aspect in its pool of applicants. It does, however, know that 12% of the applications have been submitted by women.⁵ A recent study reports that 18% of Ontario lawyers are women. The percentage of lawyers with 10 years professional experience (the statutory requirement) who are women is probably above 12%. When the committee began, only ten (4%) of the provincial judges were women. Although nine (32%) of the twenty-eight appointments resulting from the committee's recommendations were given to women, there is some progress to be made in obtaining applications from an appropriate number of women lawyers.

3. The Personal Information Form

The committee spent a good deal of effort designing a personal information form for all candidates to complete. It studied forms used in other jurisdictions and got some helpful ideas from these, especially British Columbia's. But it also made its own improvisations. The committee wanted information that is not usually included in the standard *curriculum vitae* or resumé, such as, the nature of the work and the experience gained in the various positions candidates have held. The committee was also interested in seeing how applicants expressed their reasons for wanting to become a judge and their appraisal of their own qualifications for being a judge. Copies of the English and French versions of the form the committee is now using are attached as Appendix 3.

Several applicants have sent their standard *curriculum vitae* and have refused to complete the committee's form. The committee has refused to consider these candidates. In its view, a person who refuses to fill out the form is not interested enough in the position to warrant

5. David A.A. Stager: *Lawyers in Canada* (University of Toronto Press, 1990).
[This is the footnote number in the original text.]

consideration. This is especially so when the committee finds there are so many excellent lawyers who, not only complete the form, but do so very thoughtfully. Besides, it is impossible to compare candidates who have not provided the basic written information that the committee needs.

This last point is important. The Personal Information Form serves more than the function of an application form; it also provides the information on which the committee bases its first “cut” of applicants. This first “cut” is to identify which candidates the committee will investigate further by way of contacting their referees and making other discreet inquiries. At the beginning, the committee hoped it would have been possible to contact referees and make inquiries about all applicants who met the statutory requirement of ten years’ professional legal experience. When, however, the committee was faced with the possibility of making six or seven calls on each of the 167 qualified applicants who responded to the first advertisement, the task seemed beyond it. This became even more evident as the applicant pool grew with subsequent rounds. So the committee decided that, on the basis of the written submissions alone, it would cut down the applicant pool for the next stage of collecting information.

At the end of the month within which candidates must apply, copies of the information forms of all applicants are sent to each committee member. Each member is also sent a list of all applicants from earlier rounds who have indicated that they are willing to serve in the areas currently advertised. The members individually then have ten days to two weeks to read through all relevant applications — for an average round there will certainly be more than 100 and perhaps closer to 200, each ten pages in length — and develop their own short list of the persons whom they consider to be outstanding candidates for each position. Generally, each of the members tries to arrive at a short list of five names for each position. These lists are then communicated to the chairperson who collates them onto a master sheet. The committee then applies the “rule of two”, which means that any name that appears on two or more lists goes on the list of persons about whom the committee will make further inquiries. This is not a hard and fast rule. If only one member has listed a particular candidate but feels strongly that this candidate should be given further consideration, the name is added to the list. Also, at this stage, the Attorney General has an opportunity to see the full list of candidates and indicate any one who he thinks merit being looked at further by the committee. At the end of this step in the process, the list of candidates to be looked at further will contain thirty-five to fifty names.

One further function is served by the Personal Information Form. On the first page, candidates indicate the areas of the province and the division of the court in which they prefer to serve and the additional areas where they are willing to serve. This information is stored in a computer data base so that, whenever new positions are advertised, the committee can automatically retrieve the names of persons who have previously applied and are available for these positions. The committee wants to ensure that these applicants are given as much consideration for the new positions as new applicants. Applicants are informed that, once their application is on file, it will remain active for three years. They are invited to send the committee information about changes in their career or community activities to be added to their file.

4. References and Discreet Inquiries

The committee decided that it did not want candidates to supply written letters of reference.

In their experience, the members found that such letters were not very helpful. Almost invariably, they contained fulsome praise for the candidate without really providing much insight into the person's strengths and not a whisper about possible weaknesses. Instead, the committee asks applicants to provide the names of four persons, one of whom should not be a lawyer or judge, whom the committee can contact on a confidential basis. At every stage in the process, committee members have taken every caution and every effort to maintain confidentiality. The committee stipulates that the referees should have up-to-date knowledge of the candidate's professional work or community activity. When the committee first began it found that some of the persons listed had not been advised by the candidate that their name had been given as a reference. Accordingly, the committee now requests candidates to advise their referees. The committee also writes to each of the referees to give them some background information about the committee and its criteria, and to advise them that a member of the committee may soon telephone them.

The chairperson assigns to each committee member the names of referees to be called. For the most part, the lawyer members call lawyers, Judge Walmsley and Professor Russell call judges and the other lay members call the non-lawyer referees. But this division of labour is not rigid. The committee also tries to have members concentrate their calls in their own region of the province.

The committee's experience with calls to referees is mixed. At first, the committee encountered some reluctance on the part of referees to talk to members of the committee, particularly to lay members. But now that the committee is better known and provides some advance information, the committee is getting better co-operation. Naturally, nearly all who are called are positive about the person who has named them as a referee. Some do more than that and give insightful comments on the particular strengths of the candidate and sometimes even suggest possible weaknesses. Unfortunately, a fair number of candidates submit names of very well known, even famous people who, it turns out, do not appear to know the applicant very well. These calls are not helpful. Since the committee has been sending its criteria to referees, the members have found that some calls lack spontaneity as the referee goes rather mechanically through the list of criteria.

For those candidates who have graduated beyond the first "cut", the committee, in addition to its calls to referees, also makes discreet inquiries through its own sources of information, such as, lawyers or judges whom committee members believe can furnish information on candidates' professional ability and character. This work is divided up among members of the committee, although the burden of it falls primarily on the lawyer and judge members. It is very important wherever possible to obtain these appraisals from a number of lawyers and judges. But the number cannot be too great, otherwise the confidentiality of the applicants' candidacy that the committee undertakes to preserve would be jeopardized. The committee members have about two weeks in which to call referees and make discreet inquiries.

The information the committee has received from these independent sources, who are often leading members of the bar and bench, has been most helpful. Because of the committee's undertaking to treat the information the independent sources give it in confidence, the committee cannot disclose their identity; but would like to thank them here — anonymously.

5. Interviews

When the inquiry process has been completed, the committee meets to share the information

that the members have learned through their calls and to agree on a short list of candidates to be interviewed. This meeting usually takes a full day. Deciding which candidates to interview is difficult because, at this stage, the committee usually has an embarrassment of riches — more excellent candidates than it can possibly interview. Nevertheless, the committee must reduce the list to about three interviews for each position to be filled. Each interview takes about an hour, so that for five vacancies, there will be fifteen hours of interviewing, which is about the limit of the committee's capacity. Nonetheless, sometimes the committee is persuaded to extend the interview list because it simply cannot justify dropping a particular candidate from consideration at this stage.

After the interview list is drawn up, the candidates listed are notified and interviews are scheduled for about ten days to two weeks hence. Prior to the interviews, the committee's administrative officer asks the Law Society to inform the committee of any disciplinary matters or serious complaints on the candidates' professional records.

The interviews take place back-to-back. Usually they take two days to complete. In its third round of completion, with thirteen positions open, the committee spread the interviewing over four days with two sessions, a month apart.

The interviews are conducted on a confidential basis and the committee takes pains to try to ensure that candidates do not meet each other entering or leaving the interview room. The committee fears it would lose many good candidates if confidentiality were not maintained. Each interview takes forty-five to fifty minutes. All committee members have an opportunity to ask questions, but with seven to ten in attendance, no member can raise more than a few points. The questioning is structured around the committee's criteria. A small portion of the interview concerns the candidate's professional experience as the committee has already obtained a fair amount of information on this from the written application and its telephone calls. More of the interview focuses on candidates' approach to community and legal issues and on their conception of the judicial office. The committee realizes that there is a bit of a "grape-vine" about its interviews, so it has been trying to vary the themes that different members pursue. The committee has also asked the recently appointed judges who have been through its interviews to help the committee in writing hypothetical scenarios that might be introduced into the interview process.

The committee finds the interviews a useful way of augmenting the information obtained from the information forms, the referees and the discreet inquiries. Sometimes they confirm, but often they alter, impressions that have been formed on the basis of the other sources of information. Since the candidates selected for interviews have exceptional qualifications, the main purpose of the interview stage is not to eliminate candidates but to assess their relative merits and rank them. Many of the candidates interviewed, who do not quite make the top of the committee's lists in one round, are so good that the committee decides to keep them in mind for other appointments in the future. Increasingly as time goes by and there are changes in the membership of the committee, it becomes difficult to compare candidates who have impressed the committee in earlier interviews with new candidates. To deal with this, the committee has re-interviewed candidates.

6. Recommendation to the Attorney General

Immediately following completion of the interviews of candidates for a set of positions, the committee decides on the recommendations it will make to the Attorney General. The

recommendations take the form of ranked lists for each position. Normally two or three persons are recommended for each position.

The committee endeavours, through a sustained and open discussion of the persons whom it has just interviewed and others who impressed it in earlier interviews, to arrive at a consensus. But the committee is not a monolithic body. There are significant differences among the members as to values and priorities. This means that sometimes the committee must agree to disagree about the relative merits of candidates. When this occurs, the committee submits both the majority's ranking and deviations from that ranking to the Attorney General. The committee explains whether the ranking is very close or whether a particular candidate in its view is much better than any other. If the committee was not unanimous, it reports the number of members who supported each ranking but does not disclose how individual members voted. The report takes the form of a confidential letter written by the chairperson to the Attorney General.

The submission of that letter completes the Judicial Appointments Advisory Committee's role in the selection process for that particular group of vacancies. A letter is written thanking the candidates who were interviewed for their participation in the process and asks them for any suggestions on how it might be improved. This has brought the committee some valuable advice. The letter advises them that the recommendations have been submitted to the Attorney General from whom they will hear fairly soon if they are proposed for appointment.

7. The Attorney General's Response

The Attorney General has responded to the committee's recommendations quite quickly and within a few days to a week has selected the candidates to be proposed for appointment from the ranked lists. With only one exception, the Attorney General has selected the persons ranked highest by the committee or, where there has been a split, by the majority.

The one exception occurred in unusual circumstances. Because none of the judges serving the particular region could conduct trials in French and there was a significant Francophone population in the area, the Attorney General was determined to appoint a fluently bilingual person to the position. He made this known to the community and to the committee. The committee's first recommendation for this position did not have a fully bilingual person at the top of its list. The Attorney General decided not to appoint any of the persons on this list and asked the committee if it could recommend a strong bilingual candidate. The committee then submitted the name of a bilingual candidate who was highly ranked but when the Attorney General received negative comments on the individual from the Judicial Council, the appointment was not made. The committee then endeavoured to generate some additional applications from bilingual candidates. It interviewed several more candidates and eventually was able to recommend a fully bilingual lawyer with outstanding qualifications who was then appointed to the position.

In two other cases, the committee's top ranked candidate was not appointed. The first instance occurred when the Judicial Council commented negatively on the candidate. The other occurred when the top candidate on the committee's list was selected by the Attorney General but declined the appointment.

8. The Ontario Judicial Council

As explained in Part II of this report, the Ontario Judicial Council continues to play a role in the judicial appointment process. The *Courts Of Justice Act* requires that the Attorney General

obtain the Council's "comments" on any person whom he is proposing for appointment to the Provincial Court [now the Ontario Court of Justice (Provincial Division)]. Since the establishment of the Judicial Appointments Advisory Committee, the Attorney General has submitted the name of the person selected from the committee's list to the Council for its advice. The names are submitted in "grey books" along with some basic biographical information. At its next scheduled meeting following receipt of this information, the Council interviews the persons named and then, through its chairperson, the Chief Justice of Ontario, gives its comments to the Attorney General.

Of the thirty names submitted to the Council since the committee's inception, two have been commented on negatively and as a result were not recommended by the Attorney General for appointment by the Lieutenant Governor in Council. Since the Council's comments are given on a confidential basis, they are not available to the committee. Nevertheless, the Chief Justice, without disclosing details, did inform the chairperson of Judicial Appointments Advisory Committee about the general areas of concern.

In fairness to all concerned, the details of these cases should not be discussed in a public report. Suffice it to say that the committee has expressed to the Attorney General its concerns about the accountability of the Ontario Judicial Council in the appointment process. The committee would find it helpful to have some statement of the criteria the Council applies or perhaps a statement of the Council's views on the Judicial Appointments Advisory Committee's criteria.

9. The Lieutenant Governor in Council

Under the *Courts of Justice Act*, provincial judges are formally appointed by the Lieutenant Governor in Council, that is, by the Cabinet. The names of proposed appointees are submitted for cabinet approval as soon as possible following approval by the Ontario Judicial Council. The Lieutenant Governor in Council has appointed all those selected by the Judicial Appointments Advisory Committee and approved by the Ontario Judicial Council. The committee regards this as another indication of the total absence of political interference in the arrangements now in place in Ontario for appointing judges to the Ontario Court of Justice (Provincial Division).

VIII: CRITERIA

Part of the committee's mandate has been to develop criteria for the selection of provincial judges. The committee began to work on this at its earliest meetings. The academic literature on the subject was consulted. Various members of the committee made proposals. A draft statement was drawn up and circulated to judges and lawyers for comment. The committee now has a statement of criteria that it can employ. This statement is sent to referees and to candidates before their interviews. The committee recently published the criteria along with its advertisement for the fourth round of vacancies. This statement is by no means cast in stone. Through this report, the committee again invites suggestions on how it might be improved.

The current summary statement of the criteria is set out below:

CRITERIA FOR EVALUATING CANDIDATES**Professional Excellence**

- ◆ A high level of professional achievement in the area(s) of legal work in which the candidate has been engaged. Experience in the field of law relevant to the division of the Provincial Court on which the applicant wishes to serve is desirable but not essential.
- ◆ Involvement in professional activities that keep one up to date with changes in the law and in the administration of justice.
- ◆ An interest in or some aptitude for the administrative aspects of a judge's role.
- ◆ Good writing and communications skills.

Community Awareness

- ◆ A commitment to public service.
- ◆ Awareness of and an interest in knowing more about the social problems that give rise to cases coming before the courts.
- ◆ Sensitivity to changes in social values relating to criminal and family matters.
- ◆ Interest in methods of dispute resolution alternative to formal adjudication and in community resources available for participating in the disposition of cases.

Personal Characteristics

- ◆ An absence of pomposity and authoritarian tendencies.
- ◆ Respect for the essential dignity of all persons regardless of their circumstances.
- ◆ Politeness and consideration for others.
- ◆ Moral courage.
- ◆ An ability to make decisions.
- ◆ Patience and an ability to listen.
- ◆ Punctuality — good regular work habits.
- ◆ Good health.
- ◆ A reputation for integrity and fairness.
- ◆ Not involved in serious, unresolved professional complaints, civil actions or outstanding financial claims such as unpaid taxes.

Demographic

- ◆ The provincial judiciary should be reasonably representative of the population it serves. This requires overcoming the serious under-representation of women and several ethnic and racial minorities.

Career Plans

- ◆ The provincial judiciary should be open to those who may wish to serve for a limited number of years and resign before reaching retirement age as well as those who wish to finish their professional career on the bench.

Of course, as with any general set of criteria, much depends on how they are interpreted and applied. Although there are bound to be differences in the way committee members apply these criteria, the committee will try to indicate some principles of interpretation that are followed.

The first point is that the committee is looking for candidates who are excellent in the three basic aspects that it considers: professional achievement, community awareness and personality. For instance, none of the committee members would want to recommend for a judicial appointment a lawyer who, although deeply involved in community activity and of outstanding character, nevertheless was not well regarded by judges and lawyers familiar with the candidate's professional work. By the same token, the committee would not recommend a lawyer with a sterling professional reputation but who demonstrated indifference to the way that courts affect the society they serve and came across as crusty, disdainful and arrogant.

In the professional area, the committee does not have a fixed idea about the degree of specialized expertise required. A lawyer with a great deal of experience and impressive accomplishments in either the field of criminal law or family law would be regarded as a real asset to the Provincial Court bench. But the committee has also placed lawyers at the top of its list lawyers who have not had this kind of specialized experience but have given evidence of having very good general legal skills and a real capacity for learning. Now that the two divisions of the Provincial Court have been amalgamated into the Provincial Division of the Ontario Court of Justice, the committee thinks there is an even stronger case for staffing this court with a combination of specialists and generalists.

With regard to community involvement and awareness, the committee recognizes that it would be unreasonable to insist on a high level of participation in community organizations for every candidate who is to be highly recommended. Often there are personal circumstances — for instance, major family responsibilities — that leave little time for volunteer work in the community. What is most important to the committee in this area is evidence of an awareness of and interest in the major social issues on which courts administering criminal justice and dealing with family issues have such an impact. The committee is not looking for pat answers to these issues but it is looking for candidates who are well informed and genuinely concerned about them.

The committee's list of desirable character traits may seem to describe a paragon of virtue to which few could aspire. The committee does not expect all good candidates to have all of these qualities in abundance. At the very least, the committee is on the lookout for indicators of what it calls "judgitis", that is, characteristics of judges that attract the most frequent complaints. Foremost among these is a tendency to get carried away with the power and authority of judicial office and the inability to recognize the difference between dignity and pomposity, or between firmness and arrogance. Of course, no selection process, however meticulous, could examine candidates so closely as to ensure that no one appointed would ever be impatient, intolerant, humourless or dithering. But the committee does think it worthwhile to try as hard as possible to avoid having persons appointed who show clear signs of having some of these qualities that

can render even the most brilliant lawyer ill-qualified for the judicial role.

Besides these personal qualities, the committee is also concerned about the representative nature of the Ontario judiciary. The committee believes the judiciary will better serve the community if, in a sociological sense, it is reasonably representative of that community. The committee believes this for two reasons. First, it is important that the perspectives of the various racial and ethnic groups that make up our society, and the outlook and experience of women as well as men should influence how justice is administered. Judges have a great deal of discretion in interpreting and applying the law. In the Ontario Court of Justice (Provincial Division), this is particularly true with regard to sentencing and the resolution of family problems. This discretion will be exercised more effectively and fairly when the judiciary is not dominated by a single race, or ethnic group or gender. Second, the judiciary is likely to be more credible when significant sections of the community do not appear to be excluded from its membership. Judges of the Ontario Court of Justice (Provincial Division) exercise great powers; they can impose years of imprisonment on a citizen and authorize the removal of children from the custody of their parents. Those who are subject to such decisions are likely to have more confidence in their fairness when they see members of their own social group appointed to the court that makes them.

The committee does not pursue the objective of improving the representative nature of the judiciary by setting numerical quotas. Nor does the committee think professional quality or personal aptitude should be sacrificed in order to obtain a more representative judiciary. The committee is on the lookout for outstanding candidates from groups that it has reason to believe are seriously under-represented on the Ontario Court of Justice (Provincial Division). The committee will not, however, recommend a candidate from an under-represented group ahead of one who is not, if the latter, in all other respects, is clearly better qualified.

Finally, one other element of the committee's stated criteria refers to career plans. Here the committee wishes to make it clear that it welcomes applications both from those who would like to serve as a judge until retirement and those who plan a shorter judicial career of, say, five or ten years. The committee has included this point because it was advised by both judges and lawyers about the frequency of judicial "burn-out". The problems with which provincial judges deal, day in and day out, year in and year out, are often difficult and depressing. The committee can understand how, after a decade or two of this, a judge may wish a change of career. Of course, once appointed there is no legal obligation to resign before retirement age. The Law Society has assured the committee that its rules create no impediment for provincial judges who wish to resign and return to private practice.

Please note that, since the initial publication of Appendix 2 in September 1990, there have been a number of significant changes.

— APPENDIX 3 —

**JUDICIAL APPOINTMENTS RECOMMENDED BY THE JUDICIAL APPOINTMENTS
ADVISORY COMMITTEE: JULY 1989 — AUGUST 1990**

Name	Location	Effective Date
Anderson, Charles D.	Brockville	15 August 1990
Baig, Dianne P.	Fort Frances	2 April 1990
Bonkalo, Annemarie E.	Brampton	2 April 1990
Bovard, Joseph W.	Toronto	31 December 1989
Crawford, James C.	Oshawa	1 June 1990
Flaherty, Roderick J.	Dryden	2 April 1990
Glaude, G. Normand N.	Elliott Lake*	17 April 1990
Hatton, Mary Jane	Toronto	2 April 1990
Knazan, Brent	Toronto	15 August 1990
Lenz, Kenneth G.	Simcoe/Norfolk	4 July 1989
Linden, Sidney B.	Toronto	25 April 1990
Lindsay, Eric S.	Toronto	1 September 1990
Linhares de Sousa, Maria T.	Ottawa	4 July 1989
Livingstone, Deborah K.	London	31 December 1989
MacPhee, Bruce E.	Brampton	2 April 1990
Main, Robert P.	Barrie	2 April 1990
Masse, Rommel G.	Ottawa*	4 July 1989
McGowan, Kathleen E.	St. Catharines	1 June 1990
Morgan, J. Rhys	Toronto	15 August 1990
Newton, Petra E.	Toronto	31 December 1989
Ormston, Edward F.	Toronto	31 December 1989
Reinhardt, Paul H.	Toronto	2 April 1990
Robson, M. Wendy	Peterborough	4 July 1989
Shamai, Rebecca S.	Brampton	2 April 1990
Stone, David M.	Oshawa	1 June 1990
Westman, Colin R.	Kitchener	1 June 1990
Wolder, Theo	Brampton	1 June 1990
Zabel, Bernd E.	Hamilton	24 April 1990

* denotes bilingual position

— APPENDIX 4 —

JUDICIAL APPOINTMENTS RECOMMENDED BY THE JUDICIAL APPOINTMENTS
ADVISORY COMMITTEE: SEPTEMBER 1990 — JUNE 1992

Name	Location	Effective Date
Allen, J. Elloit	Brampton	15 November 1991
Bentley, Paul	Toronto	1 June 1992
Budzinski, Lloyd M.	Brampton	1 April 1992
Carr, Ralph E.W.	Sudbury	1 July 1991
Cavion, Bruno	Brampton	15 November 1991
Cole, David P.	Scarborough	1 March 1991
Dunbar, Mary F.*	Brampton	1 February 1991
Fairgrieve, David A.	Brampton	21 December 1990
Hackett, Donna G.	Scarborough	21 December 1990
Hansen, Inger	Kitchener	1 February 1991
Hardman, Paddy A.	Kitchener	1 March 1991
Hryn, Peter	Toronto	1 June 1991
Hunter, Stephen J.	Ottawa	1 June 1991
Johnston, Karen E.	Oshawa	1 July 1991
Jones, Penny J.	Toronto	15 July 1991
Khawly, Ramez	Sarnia	1 December 1991
Khoorshed, Minoo F.	Toronto	1 June 1992
Lane, Marion E.	Brampton	1 February 1991
Lester, Ronald B.	Thunder Bay	1 March 1991
Marshman, Mary E.*	Windsor	15 July 1991
Nicholas, Dianne M.	Ottawa	1 June 1991
Phillips, Douglas W.	Windsor	1 March 1991
Ratushny, Lynn D.	Ottawa	1 March 1991
Ray, Sheila	Toronto	15 April 1992
Ready, Elinore A.	Brampton	21 December 1990
Roberts, Marietta L.D.	Brampton	1 March 1991
Rogers, Sherrill M.	Newmarket	15 July 1991
Rosemay, Vibert T.	Brampton	1 December 1991
Salem, Harvey M.	Scarborough	1 March 1991
Schnall, Eleanor M.	London	1 March 1991
Sheppard, Patrick A.	Newmarket	1 June 1991
Simmons, Janet M.†	Brampton	21 December 1990

* Subsequently appointed to the Family Court, a branch of the Ontario Court (General Division).

† Subsequently appointed to the Ontario Court (General Division)

Stead, W. Brian	Simcoe	1 July 1991
Taillon, Raymond P.	Oshawa	1 July 1991
Timms, David Roger	Oshawa	1 March 1991
Vaillancourt, Charles H.	Downsview	21 December 1990
Vyse, Diane Terry	Cambridge	1 March 1991
Waldman, Geraldine	Brampton	15 November 1991
Whetung, Timothy C.	Peterborough	1 December 1991

— APPENDIX 5 —

JUDICIAL APPOINTMENTS RECOMMENDED BY THE JUDICIAL APPOINTMENTS
ADVISORY COMMITTEE: JULY 1992 — DECEMBER 1993

Name	Location	Effective Date
Atwood, Hugh K.	Brampton	4 January 1993
Austin, Deborah J.	Sarnia	1 December 1992
Bigelow, Robert G.	Toronto	9 August 1993
Blacklock, W. James	Brampton	25 January 1993
Blishen, Jennifer A.	Ottawa	15 January 1993
Casey, Jeff	Toronto	21 December 1992
Cohen, Marion L.	Toronto	9 August 1993
Fraser, Hugh L.	Toronto	3 May 1993
Gauthier, Louise L.	Northeast Region	15 August 1992
Katarynych, Heather L.	Central South Region	1 July 1993
Kerrigan-Brownridge, Jane	Brampton	15 January 1993
Marin, Sally E.	Toronto	9 August 1993
Minard, Ronald A.	Newmarket	5 April 1993
Morten, Marvin G.	Toronto	5 July 1993
Omatsu, Maryka J.	Toronto	1 February 1993
Otter, Russel J.	Toronto	5 July 1993
Pockele, Gregory A.	Stratford	2 November 1992
Rawlins, Micheline A.	Windsor	15 October 1992
Richards, Ronald J.	Toronto	21 December 1992
Scott, Margaret A.C.	Oshawa	15 December 1993
Sparrow, Geraldine	Toronto	15 January 1993
Woolcott, Margaret F.	Brampton	4 January 1993
Wright, Peter J.	East Region	5 July 1993

— APPENDIX 6 —

JUDICIAL APPOINTMENTS RECOMMENDED BY THE JUDICIAL APPOINTMENTS
ADVISORY COMMITTEE: JANUARY 1994 — FEBRUARY 1995

Name	Location	Effective Date
Agro, P.H. Marjoh	Brantford	16 September 1994
Bishop, Peter T.	Dryden	6 September 1994
Campbell, Hugh J.	Oshawa	7 November 1994
Cleary, Thomas P.	Barrie	6 June 1994
Culver, Timothy A.	Kitchener	16 May 1994
Douglas, Noramn S.	Brampton	16 May 1994
Foster, Stephen E.	Newmarket	7 November 1994
Harris, C. Roland	Barrie	8 August 1994
Harris, Peter A.J.	Brampton	13 February 1995
Hawke, Kathryn L.	Brampton	6 February 1995
Isaacs, Peter R.W.	Stratford	13 February 1995
Lafrance-Cardinal, Johanne.	Cornwall*	6 September 1994
O'Hara, Terrence G.	Newmarket	6 February 1995
Renaud, J.R. Gilles	Cornwall*	23 January 1995
Wake, John David	Brampton	8 August 1994

* denotes bilingual position

— APPENDIX 7 —

JUDICIAL APPOINTMENTS RECOMMENDED BY THE JUDICIAL APPOINTMENTS
ADVISORY COMMITTEE: MARCH 1995 — DECEMBER 1995

Name	Location	Effective Date
Bassel, William P.	Toronto	12 April 1995
Brownstone, Harvey P.	Toronto	9 March 1995
Finnestad, Faith M.	Toronto	12 April 1995
Kukurin, John	Sault Ste. Marie	29 May 1995
Weagant, Brian	Toronto	8 May 1995

— APPENDIX 8 —

JUDICIAL APPOINTMENTS ADVISORY COMMITTEE MEMBERS

J. Douglas Grenkie, Q.C. Morrisburg, Morrisburg — Committee Chair

Called to the Ontario Bar in 1970, Mr. Grenkie is a general practitioner in Morrisburg and a partner in the firm of Gorrell, Grenkie, Leroy & Remillard with offices in Morrisburg, Cardinal and Ingleside. He is also a partner in the firm of Cass, Grenkie in Chesterville. Mr. Grenkie is an active member of the Morrisburg & District Lions Club and the S.D.&G Cornwall Shrine Club (Karnak Temple, Montreal). He is a former President of the East District of the Cancer Society, Ontario Division, the founding President of the Upper Canada Playhouse and Past President of the Canadian Bar Association-Ontario and is its representative on the Committee.

Associate Chief Judge Robert Walmsley, Toronto — *(Past Committee Chair)*

Judge Walmsley was called to the Bar in 1955 and started his legal career as a partner in law firm in Picton, Ontario. He also acted as a part-time judge in the Eastern Region and was appointed to the Provincial Court (Family Division) on a full-time basis in August 1968. He was then appointed Senior Judge for the Eastern Region and the Associate Chief Judge of the Provincial Court (Family Division). Judge Walmsley was re-appointed to the Committee as the representative of the Chief Judge of the Provincial Court, Honourable Sidney B. Linden, to serve a two-year term.

Professor Emily Carasco, Windsor — *(Past Committee Chair)*

Professor Carasco is an associate professor at the Faculty of Law, University of Windsor. She teaches family law and is actively involved in a number of projects related to the status of women and access to justice. Professor Carasco is a member of the Board of Directors of the Ontario Confederation of University Faculty Association and the Gender Issues Committee of the Canadian Bar Association. In addition, she is also a member of the Board of Directors of the South Asian Centre and the Windsor Committee, National Organization for Visible Minorities. Professor Carasco has a number of publications to her credit pertaining to the rights and status of children, women and minorities. Professor Carasco was re-appointed to serve a one-year term.

Regional Senior Judge John Evans, Lindsay

Judge Evans was called to the Bar in 1974. From 1974 to 1984, he was in private practice specializing in criminal law. In 1984, he was appointed a judge of the Provincial Court (Criminal Division) and, in 1990, became the Regional Senior Judge of the Ontario Court (Provincial Division) Central East Region. Judge Evans is the representative of the Chief Judge of the Ontario Court (Provincial Division) on the Committee, Chair of the Judicial Conduct Committee, a member of the Chief Judge's Executive Committee and a member of the Board of Governors, American Judges Association. Judge Evans was re-appointed to serve a three-year term.

Robert J. Carter, Q.C. Toronto

Called to the Bar in 1962, Mr. Carter has been a bencher of the Law Society of Upper Canada since 1975 and is its representative on the Committee. He is a partner in the firm of Carter, McCombs and Minden and specializes in the practice of criminal law. Since 1966, Mr. Carter has been actively involved in legal education in various rôles. From 1966 until recently, he was the "Head" of the criminal procedure section of the Bar Admissions Course, co-chair, lecturer and panellist for the Law Society of Upper Canada, Department of Continuing Education from 1966 until 1993, and the Federation of Criminal Law Societies' annual continuing education course from 1974 until 1993, and is the Chair of the Admissions Committee. Mr. Carter was re-appointed to serve a three-year term.

Bernice Dubec, Thunder Bay

Bernice Dubec is a long-term care policy analyst with the Ontario Native Women's Association, a political advocacy group for native women in the province. She also is the former executive director of Wequedong Lodge which provides services to the native community in Thunder Bay. From 1986-91, Mr. Dubec was a member of the Ontario Advisory Council on Women's Issues. Ms. Dubec was re-appointed to serve a two-year term.

Nancy E. Hansen, Ottawa

Ms. Hansen is studying towards a PhD. in applied social science, specifically gender disability and employment, at Stirling University in Scotland. She teaches in the Department of Law at Carleton University on a part-time basis (disability and civil rights). Ms. Hansen is employed with the Corporate Assignments Program of Statistics Canada focusing on disability issues. Ms. Hansen was re-appointed to serve a two-year term.

Palmacchio Di Iulio, Toronto

Palmacchio (Pal) Di Iulio, former teacher, immigration officer and restaurateur, has been involved in the development of Villa Colombo Home for the Aged and Columbus Community Centre since 1975 and executive director of the Italian Canadian Benevolent Corporation, a non-profit organization, since 1984. He is a past member of the Canadian Multiculturalism Council and was appointed to serve for a three-year term.

The Reverend Harry Huskins, Lively

Rev. Huskins is rector of the parish of Christ Church in Lively, Ontario. He recently served as chair of the Inter-Faith Institutional Chaplaincy Committee with the Ministry of the Solicitor General and Correction Services in Sudbury. Rev. Huskins also teaches in the departments of classical and religious studies at Laurentian University. He was appointed to serve a three-year term.

Beverley Johnson, Toronto

Ms Johnson has over twenty years' experience in the field of human rights. She is currently the Human Rights Officer with the Ontario Public Service Employees Union, where she provides advice to members on human rights and employment equity issues. She is currently a member of the Ontario Federation of Labour's Human Rights Committee and the Ontario Coalition of Black Trade Unionists. Ms. Johnson is also a founding member of the Congress of Black Women (Toronto), a volunteer and former director of the Children's Aid Society of Metropolitan Toronto. Ms. Johnson was appointed to serve a three-year term.

Nancy Mossip, Mississauga

Nancy Mossip has practised family law in Mississauga since her call to the Bar in 1979. Ms. Mossip has been actively involved in delivering courses in family law for both the Law Society of Upper Canada and the Canadian Bar Association-Ontario. Ms. Mossip currently chairs the Law Society's Family Law Specialty Committee which certifies lawyers as family law specialists throughout the province. Ms. Mossip is the representative of the County and District Law Presidents' Association and was appointed for a one-year term.

The Honourable Judge Lynn King, Toronto

Judge King was called to the Bar with Honours in 1973. From 1973 to 1986, she specialized in the practice of family law, first as a partner in the firm Copeland and King and later as a partner in the firm of King and Sachs (an all-women's law firm). Judge King was appointed to the Provincial Court (Family Division) in 1986. Prior to her appointment, Judge King was actively involved in a number of community organizations, including the Rape Crisis Centre, Women's Habitat, Interval House and the Casey House Hospital. Judge King has several publications to her credit, including *What every Woman should know about Marriage, Separation and Divorce*.^{*} Judge King is the designated representative to the Committee of the Ontario Judicial Council.

^{*} (Toronto: J. Lorimer, 1980).

